REMARKS

This Amendment and Response is in response to the *Advisory* Office Action of July 29, 2005, where the Examiner has rejected claims 5, 6 and 24. By the present amendment, claims 5 and 6 have been amended, new claims 25-31 have been added, and claim 24 has been cancelled. After the present amendment, claims 5, 6 and 25-31 are pending in the present application. Allowance of outstanding claims 5, 6 and 25-31 in view of the following remarks is respectfully requested.

A. Rejection of Claims 5 and 24 under 35 USC §103(a)

The Examiner has rejected claims 5 and 24, under 35 USC §103(a), as being unpatentable over Wilder, et al. (USPN 5,262,871) ("Wilder") in view of Palcic, et al. (USPN 5,827,190) ("Palcic").

Applicant has amended claim 5 to read: "where the image processor detects whether there is a low incident light condition, and in response to detecting the low incident light condition, the image processor switches from the full-resolution mode to the low-resolution mode of the circuit and captures the image using the low-resolution mode of the circuit."

The Examiner asserts that Palcic discloses that "the image processor detects whether there is a low incident light condition, and if so, captures the image using the low-resolution mode of the circuit," based on Palcic disclosure at col. 4, lines 6-11, which reads:

> image sensing means at the inner end of the probe to detect tissue fluorescence, the image sensing means having a light sensitivity that can be increased to acquire low resolution images at low fluorescent light intensities and decreased to acquire high resolution images at other light intensities.

Palcic clarifies the aforementioned excerpt (which is part of the claim language) in the detailed description of Palcic, at col. 9, lines 8-14, which reads:

> The endoscope apparatus of the fourth embodiment is able to collect the faint fluorescence images that provide information necessary for delineating diseased an normal tissue by virtue of the fact that CCD sensor 12 is provided with a light sensitivity that can be increased to acquire low resolution images at low fluorescent light intensities and decreased to acquire high resolution images at other light intensities.

In other words, Palcic discloses that if CCD sensor 12 is in low resolution mode, the light sensitivity of CCD sensor 12 can be increased to acquire the image, and if CCD sensor 12 is in high resolution mode, the light sensitivity of CCD sensor 12 can be decreased to acquire the image. However, Palcic does not come close to disclosing, teaching or suggesting that "in response to detecting the low incident light condition, the image processor switches from the full-resolution mode to the low-resolution mode of the circuit and captures the image using the low-resolution mode of the circuit." In contrast, Palcic simply discloses that the lighting condition is adjusted in each mode, but falls completely short of teaching or suggesting that the lighting condition is used to switch from the low resolution mode to the high resolution mode.

The Examiner relies upon Wilder for disclosing "selection between a low resolution mode and a high resolution mode," however, indeed, such disclosure does not

teach or suggest a desirability of using the lighting conditions for switching from the low resolution mode to the high resolution mode. Further, as discussed above, Palcic also fails to teach or suggest a desirability of using the lighting conditions for switching from the low resolution mode to the high resolution mode.

Moreover, applicant respectfully disagrees with the Examiner's characterization of applicant's approach to the effect that applicant is attacking the references individually. It is respectfully submitted that in order to combine two references, the Examiner has the burden to show that at least one of the references suggests the desirability of combining the two references. To this end, each reference must be studied and analyzed individually to determine whether such reference suggests the desirability of combining the two references.

Applicant respectfully submits that neither Palcic nor Wilder suggests the desirability of combining the two references, such that in response to detecting the low incident light condition, the image processor switches from the full-resolution mode to the low-resolution mode.

Applicant would like to direct the Examiner's attention to the guidance from the Federal Circuit:

> "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious *unless the prior art suggested the desirability of the modification*" (emphasis added) (In re Gordon, 733 F.2d 900, 902 (Fed. Cir. 1984) (see also In re Fitch, 972 F.2d 1260 (Fed. Cir. 1992)).

> In a proper obviousness determination, "whether the changes from the prior art are 'minor', ... the changes must be evaluated in terms of the whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the patentee's ... device." (citations omitted.) This includes what could be characterized as simple changes, as in *In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. (BNA) 1125, 1127 (Fed. Cir. 1984)* (**Although a prior art device could have been turned upside down, that did not make the modification obvious unless the prior art fairly suggested the desirability of turning the device upside down**). (emphasis added) (In re Chu, 66 F.3d 292, 298 (Fed. Cir. 1995)).

Accordingly, applicant respectfully requests the that Examiner reconsiders the rejection of claim 5 based on Wilder and Palcic, for the reasons stated above, and allow claim 5 of the present application.

By the present amendment, claim 24 has been cancelled. Therefore, applicant respectfully submits that the Examiner's rejection of claim 24 has been rendered moot.

B. <u>Rejection of Claim 6 under 35 USC §103(a)</u>

The Examiner has rejected claim 6, under 35 USC §103(a), as being unpatentable over Wilder in view of Anderson, et al. (USPN 6,233,016) ("Anderson"), and further in view of Kuroiwa (US Pub. 2001/0017658) ("Kuroiwa").

Applicant has amended claim 6 to read: "where the image processor detects whether there is a low power condition, and in response to detecting the low power condition, the image processor switches from the full-resolution mode to the low-

resolution mode of the circuit and captures the image using the low-resolution mode of the circuit."

The Examiner asserts that Anderson discloses detection of a low power condition and issues a signal to turn off the flash unit. The Examiner goes on to further acknowledge that Anderson teaches that the entire unit is turned off and fails to disclose or teach that a low resolution mode is selected. However, the Examiner also attempts to fill this gap using Kuroiwa for a teaching that sub-sampling reduces resolution and power consumption.

Applicant respectfully disagrees. First, it is respectfully submitted that Kuroiwa relates to displaying images and not capturing images. In other words, Kuroiwa describes sub-sampling the image after the image has been captured to generate a low resolution image. Kuroiwa does not relate to capturing an image in a low resolution mode for lowering the power consumption.

Furthermore, applicant respectfully submits that assuming, arguendo, that the Examiner's characterization of Anderson and Kuroiwa is correct (although applicant maintains an opposing view), contrary to the Examiner's statements, for the reasons stated below, there is no teaching or suggestion by either reference, whatsoever, to combine Anderson and Kuroiwa with Wilder, as described by the Examiner. Applicant respectfully submits that there is no disclosure in Anderson that remotely suggests a desirability of detecting low power and switching from the full-resolution mode to the low-resolution mode of the circuit and captures the image using the low-resolution mode

of the circuit in response to detecting the low power condition. In fact, not only Anderson does not suggest a desirability of such selection in response to a low power detection, but Anderson also teaches away by disclosing that a signal is sent to turn off an entire unit, i.e. the flash unit. Furthermore, Kuroiwa relates to processing a captured image to obtain a low resolution image by subsampling. Kuroiwa does not suggest a desirability of using a low resolution mode for capturing an image to reduce power consumption in response to a low power detection.

As stated above, the Federal Circuit has explicitly stated that a prior art cannot be modified to render an invention obvious "*unless the prior art suggested the desirability of the modification*." (emphasis added.) (In re Gordon, 733 F.2d 900, 902 (Fed. Cir. 1984) (see also In re Fitch, 972 F.2d 1260 (Fed. Cir. 1992)). Therefore, applicant respectfully submits that there is no suggestion of a desirability to modify Kuroiwa to captured an image in a low resolution mode to reduce power consumption, since Kuroiwa merely suggests the subsampling of an already captured image to generate a low resolution image. Accordingly, applicant respectfully submits that claim 6 should be allowed.

C. **New Claims 25-31**

By the present amendment, applicant has added claims 25 and 26, which depend from claim 5, claims 27 and 28, which depend from claim 6, independent claim 29, and claims 30 and 31, which depend from claim 29.

Claim 25 recites that the plurality of photocells are arranged in a plurality of columns and rows, and wherein each of the plurality of rows has an alternating pattern of red, green, red, green and green, blue, green, blue pixels, and the image processor includes a row pulse generator and a column pulse generator that propagate pulse signals to cause at least two of the plurality of pixels of the same color to be selected during each clock cycle, and wherein a frequency of the pulse determines a resolution reduction of the image.

Further, claim 26 recites that the system further comprises a row clock signal operating at a first clock rate, a column clock signal operating at a second clock rate, and a charge accumulator configured to accumulate charges from the selected pixels during first clock cycles; where the image processor increases the first clock rate and the second clock rate during second clock cycles when the charge accumulator is not accumulating charges.

Applicant respectfully submits that the cited references fail to disclose, teach or suggest various elements of claims 25 and 26. Further, claims 25 and 26 depend from claim 5. Therefore, claims 25 and 26 should be allowed.

Claims 27 and 28 depend from claim 6 and include limitations similar to those of claims 25 and 26, respectively. Therefore, claims 27 and 28 should also be allowed.

Independent method claim 29 includes limitations similar to those of claim 5, and dependent claims 30 and 31 include limitations similar to those of claims 25 and 26, respectively. Therefore, claims 29-31 should also be allowed.

D. Conclusion

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 5, 6 and 25-31 pending in the present application is respectfully requested.

Respectfully Submitted,
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